

In re) Fair Hearing No. 10,881
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Appeal of)

The petitioner appeals the decision by the Department of Social Welfare reducing his food stamps. The issue is whether child support payments that are garnished from his unemployment benefits are counted as income in determining his food stamp eligibility.¹

The facts are not in dispute. The petitioner was severely injured in an accident in November, 1991. He has not worked since. In December, 1991, he began receiving unemployment benefits. His benefit amount is \$161.00 a week.

However, pursuant to a court order for child support, \$80.00 of this amount is garnished each week and sent to the Department of Social Welfare, which has been designated to collect child support on behalf of the petitioner's ex-wife.

The petitioner applied for food stamps in November, 1991. Initially, he was found eligible to receive an allotment of \$111.00 a month. However, when he began receiving unemployment compensation the Department (effective January 1, 1992) reduced his allotment to \$10.00 a month. The Department is counting the entire unemployment compensation benefit of

\$161.00 a week income to the petitioner despite the fact he only receives \$81.00 a week, after the \$80.00 garnishment.²

ORDER

The Department's decision is affirmed.

REASONS

Food Stamps is a federal program administered by states according to federal statutes and regulations.³ Food Stamp Manual (F.S.M.) § 273.9(b) defines "income" as "all income from whatever source excluding only items specified in paragraph (c) of this section." F.S.M. § 273.9(c) provides:

"Only the following items shall be excluded from household income and no other income shall be excluded. . ." The listed exclusions in this section do not include child support payments--either those garnished from wages or paid otherwise.⁴ Neither are child support payments allowed as a "deduction" as a "household expense" under F.S.M. § 273.9(d).

Inasmuch as the Department's decision is in accord with the applicable regulations the Board is bound by law to affirm. 3 V.S.A. § 3091(d) and Food Stamp Fair Hearing Rule No. 17.

FOOTNOTES

¹The petitioner has made a separate application for general assistance (G.A.) benefits. He has been informed that he retains a separate right to appeal if he is

dissatisfied with the Department's decision in this regard.

²The petitioner indicated that his unemployment benefits will expire sometime in January, 1992. He was advised to promptly notify the Department when this happens, and his benefits will be redetermined.

³See 7 U.S.C. §§ 2011-2029.

⁴The rationale for not excluding child support payments may be that they are subject to modification through court order. The petitioner was advised of his rights in this regard.

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